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12 [Additional Counsel listed on signature page]

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 IN RE SUNPOWER CORPORATION
16 SECURITIES LITIGATION

17 Master File No. 3:16-cv-4710-RS

18 CLASS ACTION

19 **STIPULATION AND [~~PROPOSED~~]**
20 **SCHEDULING ORDER**

1 WHEREAS, on August 16, 2016, Plaintiff Kenneth Bristow filed a complaint in this
2 Court alleging claims under the federal securities laws against Defendants SunPower
3 Corporation, Thomas H. Werner, and Charles D. Boynton (collectively, “Defendants”) (*see* Dkt.
4 No. 1, *Bristow v. SunPower Corporation, et al.*, No. 16-cv-04710-RS);

5 WHEREAS, on August 26, 2016, Plaintiff Jay Patel filed a related action alleging claims
6 under the federal securities laws against Defendants (*Patel v. SunPower Corporation, et al.*, No.
7 16-cv-04915-WHO);

8 WHEREAS, on December 9, 2016, the Court consolidated the related actions, Mundeog
9 Seol was appointed as lead plaintiff, and his selection of Brower Piven, P.C. as lead counsel and
10 Finkelstein Thompson, LLP as liaison counsel for the class was approved pursuant to the
11 Private Securities Litigation Reform Act of 1995 (the “PSLRA”) (*see* Dkt. No. 52);

12 WHEREAS, on February 23, 2017, the Court entered an order granting then-Lead
13 Plaintiff Mundeog Seol until March 31, 2017 to file a consolidated complaint (Dkt. No. 57);

14 WHEREAS, on March 31, 2017, then-Lead Plaintiff Mundeog Seol moved to withdraw
15 from this action (Dkt. No. 58);

16 WHEREAS, on May 15, 2017, the Court granted Mundeog Seol’s motion to withdraw,
17 and reopened the PSLRA lead plaintiff appointment process (*see* Dkt. No. 66);

18 WHEREAS, on July 21, at the conclusion of the new PSLRA lead plaintiff motion
19 period, two motions for appointment as lead plaintiff were filed: one by the SunPower Investor
20 Group (Dkt. No. 74), and one by JianFei Huang and Gregory Binkiewicz (“Huang and
21 Binkiewicz”) (Dkt. No. 70);

22 WHEREAS, on August 4, 2017, the SunPower Investor Group filed its opposition to
23 Huang and Binkiewicz’s lead plaintiff motion (Dkt. No 77), and Defendants filed their response
24 to the lead plaintiff motions, stating “Defendants take no position as to whom the Court should
25 appoint as a new lead plaintiff and/or lead counsel” (Dkt. No. 76);
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1 WHEREAS, on August 8, 2017, Huang and Binkiewicz filed their opposition to the
2 SunPower Investor Group's lead plaintiff motion (Dkt. No. 78);

3 WHEREAS, on August 10, 2017, Huang and Binkiewicz withdrew their motion for
4 appointment as lead plaintiffs (*see* Dkt. No. 79);

5 WHEREAS, on August 21, 2017, this Court appointed the SunPower Investor Group
6 members as Lead Plaintiffs, and approved Lead Plaintiffs' selection of The Rosen Law Firm,
7 P.A. and Glancy Prongay & Murray LLP as Co-Lead Counsel (*see* Dkt. No. 82);

8 WHEREAS, this case involves complex factual issues, and is subject to a heightened
9 pleading standard under the PSLRA;

10 WHEREAS, Lead Plaintiffs intend to file a consolidated complaint to ensure diligent
11 prosecution of this action;

12 WHEREAS, Defendants anticipate filing a motion to dismiss the consolidated
13 complaint;

14 WHEREAS, there is currently no schedule in place for the filing of a consolidated
15 complaint or the filing of a motion to dismiss, and the parties hereto desire to establish such a
16 schedule;

17 WHEREAS, counsel for Lead Plaintiffs and counsel for Defendants have conferred
18 regarding an appropriate schedule for the filing of a consolidated complaint and a motion to
19 dismiss, and Defendants agreed to a schedule that accommodates the expected birth (in mid-
20 September) of the first child of one of the primary Glancy Prongay & Murray LLP partners
21 handling this case, and additionally, prior commitments of the various counsels.

22 THEREFORE, IT IS ACCORDINGLY STIPULATED AND AGREED, by and
23 between the undersigned counsel for the parties, and subject to the Court's approval, as follows:

- 24
- 25 1. Lead Plaintiffs shall file a consolidated complaint by October 17, 2017;
 - 26 2. Defendants shall answer, move or otherwise respond to the consolidated
27 complaint by December 18, 2017; and
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1 3. If Defendants file a motion to dismiss the consolidated complaint, Lead Plaintiffs
2 shall file an opposition to the motion to dismiss by January 26, 2018, and Defendants shall file a
3 reply to Lead Plaintiffs' opposition by February 27, 2018.
4

5 Dated: August 25, 2017

GLANCY PRONGAY & MURRAY LLP

6
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20 *Co-Lead Counsel for Lead Plaintiffs and the Class*
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1 Dated: August 25, 2017

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ATTESTATION

I, Robert V. Prongay, am the ECF User whose identification and password are being used to file this Proposed Order of Consolidation. In compliance with Local Rule 5-1(i)(3), I hereby attest that Counsel for Defendants concur in this filing.

DATED: August 25, 2017

/s/ Robert V. Prongay
ROBERT V. PRONGAY

1 **~~[PROPOSED]~~ ORDER**

2 Based on the foregoing stipulation, and the good cause shown therein, the Court
3 GRANTS the parties' stipulation. The Court Hereby orders as follows:

- 4 1. Lead Plaintiffs shall file a consolidated complaint by October 17, 2017;
5 2. Defendants shall answer, move or otherwise respond to the consolidated
6 complaint by December 18, 2017; and
7 3. If Defendants file a motion to dismiss the consolidated complaint, Lead Plaintiffs
8 shall file an opposition to the motion to dismiss by January 26, 2018, and Defendants shall file a
9 reply to Lead Plaintiffs' opposition by February 27, 2018.

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11 DATED: 8/28/17

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14 Hon. Richard Seeborg
15 U.S. District Court Judge
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